IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1134 OF 2005

Shri.Vijay Shankar Shinde ...Petitioner

Vs.

The Divisional Traffic Supdt.
Maharashtra State Road Transport
Corporation, Kolhapur ...Respondent

...

Mr.S.N.Deshpande for Petitioner
Mr.G.S.Hegde for Respondent

...

CORAM : B.H.MARLAPALLE,J.

DATE : APRIL 21,2005

P.C.:

1. Heard Mr.Deshpande, the learned counsel for the Petitioner who is presently in the employment of the Corporation as a driver. On 5.3.2003 he was driving the Corporation bus on the Vishalgad-Kolhapur Road and it is alleged that due to reckless and rash driving, he suddenly applied brakes when he noticed a pedestrian and as a result, the bus hit the pedestrian and subsequently, it smashed against a standing tree. The pedestrian died on the spot and five passengers in the bus sustained serious injuries. A charge-sheet was issued against him on 26.3.2003 alleging acts of misconduct under Articles 10, 15,22 and 39 of the Discipline and Appeal

Procedure. The departmental enquiry resulted in the findings against the Petitioner and therefore, while forwarding the enquiry officer's report, a show cause notice proposing the punishment of dismissal was issued to him on 28.11.2003. He immediately approached the Labour Court and filed the Complaint (ULP) No. 277 of 2003 along with an application for interim relief under Section 30(2) of the MRTU and PULP Act, 1971. After hearing both the parties, the learned Judge of the Labour Court at Kolhapur was pleased to reject the said application for interim-relief i.e. injunction against the employer not to proceed with the proposed order of dismissal. The petitioner therefore approached the Industrial Court in Revision Application (ULP) No. 17 of 2004 which came to be dismissed by the learned Member of the Industrial Court at Kolhapur on 15.1.2005 and hence, this petition.

2. Having regards to the enquiry officer's findings and the reasoning given by the learned Judge of the Labour Court regarding prima facie case, no fault could be found with the order of the Industrial Court confirming the order of the Labour Court. The enquiry was conducted in which the Petitioner participated fully and he was given due opportunity to defend his case. Even after the order of dismissal is issued, he has the departmental remedies

viz. first appeal as well as second appeal and therefore, there is no reason to cause interference in the impugned orders by exercising the powers under Article 227 of the Constitution of India.

3. The Petition is therefore, rejected summarily. However, it is clarified that as and when the order of dismissal is challenged in an appropriate proceeding by the Petitioner, the said challenge would be considered without being influenced by any observations made in this order.

[B.H.MARLAPALLE,J.]